

SECURITY JUDGE ADVOCATE'S OFFICE  
 7708 WAR CRIMES GROUP  
 EUROPEAN COMMAND

19 May 1947

UNITED STATES )

vs )

Case No. 12-355/6 )

Eduard HERMANN, Karl H.  
 SCHICKLER, Rupert LANG and  
 Wilhelm HEIMES, German  
 nationals )

REVIEW AND RECOMMENDATIONS

1. TRIAL DATA:

Tried at Dachau, Germany  
 Date: 26 Feb. - 3 Mar. 1947  
 General Military Government Court  
 Sentence: Acquittal

ACCUSED

HERMANN, Age 61, Austrian, Colonel  
 SCHICKLER, Age 52, German, Captain  
 LANG, Age 41, Czechoslovakian,  
 Private

FIRST CHARGE: Violation of the Laws  
 of War.

Plase Findings

PARTICULARS: In that Eduard HERMANN,  
 Karl H. SCHICKLER, Rupert LANG and  
 Wilhelm HEIMES, German nationals, act-  
 ing in pursuance of a common design, to  
 commit the acts hereinafter alleged, and  
 as members of the staff of Dulag 377, did,  
 at or near GEROLSTEIN, Germany, between  
 about 19 December 1944 and about 5 Feb-  
 ruary 1945, deliberately and wrongfully  
 encourage, aid, abet and participate in  
 the subjection of unknown members of the  
 United States Army, who were then unarmed,  
 surrendered prisoners of war in the cus-  
 tody of the then German Reich, to mis-  
 treatment and cruelties, including star-  
 vation, beatings, over-exercising, exposure  
 to disease, and refusal and failure to fur-  
 nish medical care to sick and wounded  
 prisoners of war, the exact names and  
 numbers of such members of the United  
 States Army being unknown, but aggrega-  
 ting many hundreds, of which an unknown  
 number died as a result thereof.

HERMANN	NG	NG
SCHICKLER	NG	NG
LANG	NG	NG
HEIMES	Dismissed on	Motion

SECOND CHARGE: Violation of the Laws  
 of War.

Plase Findings

PARTICULARS: In that Eduard HERMANN,  
 Karl H. SCHICKLER, Rupert LANG and  
 Wilhelm HEIMES, German nationals, act-  
 ing in pursuance of a common design,  
 to commit the acts hereinafter alleged,  
 and as members of the staff of Dulag  
 377, did, at or near GEROLSTEIN, Germany,  
 between about 19 December 1944 and about

HERMANN	NG	NG
SCHICKLER	NG	NG
LANG	NG	NG
HEIMES	Dismissed on	Motion



3 Thursday 1945, willfully and wrong-fully encourage, aid, abet and participate in the forcing of unknown members of the United States Army who were then unarmed, surrendered prisoners of war in the custody of the then German Reich, to perform work directly related to the war operations of the then German Reich, including repairing of bombed out railroads, digging anti-aircraft gun emplacements and filling bomb craters, the exact names and numbers of such members of the United States Army being unknown, but aggregating many hundreds.

2. RECOMMENDATIONS: As no action by any reviewing authority is necessary, it is recommended that the record of trial and other papers be filed in this office and that a copy of the Review and Recommendations be forwarded to the Judge Advocate, European Command, for his information.

3. EVIDENCE:

For the Prosecution.

The Court sustained the motion of the prosecution to dismiss, with prejudice, the charges against accused Wilhelm HEINES (R 2).

Prosecution's Exhibits P-4 thru P-24, except P-22, which was stricken on motion of the defense (R 60, 61), are sworn statements of members of our armed forces, who, as prisoners of war, were at GEROLSTEIN, Germany, during the period in question. In these statements the affiants relate the commission of the various war crimes alleged in the particulars, but in no instance do they identify any of the accused as a perpetrator.

Prosecution's Exhibits P-1, P-2 and P-3 are, respectively, catechistical sworn statements of accused HERMANN, SCHICKLER and LANG. SCHICKLER (P-2) stated that he was commander of the guard company, that he was at GEROLSTEIN approximately 5 days to 25 December 1944, that a Capt. KUEBNER had charge of the work details, and admitted some knowledge of the war crimes in question but did not admit complicity therein or responsibility therefor. LANG (P-3) stated that he was a member of the guard company, that he went to GEROLSTEIN about 20-21 December 1944 (he does not state how long he remained there). He admitted some knowledge of some of the war crimes in question but did not admit complicity therein or responsibility therefor. HERMANN (P-1) stated that he



was a Colonel in charge of Dulag 377, near BERGHEIM from 24 December 1944 until the beginning of February 1945, that it was a transient camp with facilities to billet 1800 to 2000 so that they were protected from the weather and elements. "It wasn't very comfortable but they were to be kept there for one or two days so they had a roof over their heads until the time that they were taken away". He admitted that many had to sleep on the floor without coverings, that 40 or 50 died, but mostly of wounds or freezing incurred prior to arrival, that prisoners were used to clean latrines as there were no other workers, that there were no <sup>h</sup>bathing facilities, that on one or two days the bread ration was cut 50% because of stoppage of transportation, that there was but one German doctor and few medical supplies, that there was only <sup>one</sup> ~~a~~ sick bay for American soldiers, that American medical personnel were used for American soldiers. He admitted knowledge of the killing of an American PW by German Sgt. BIERMEIER and that he did not punish BIERMEIER but followed orders by taking statements and forwarding same to Wehrmacht headquarters.

For the Defense.

After the prosecution rested (R 59) the defense moved for findings of not guilty as to each of the accused (R 61, 62, 63, 64, 82, 83). As the motions were sustained and the Court acquitted the accused (R 84), no evidence was presented by the defense.

4. JURISDICTION: The Court was legally constituted and had jurisdiction of the persons of the accused.

5. COMMENTS: The evidence adduced was such that, in the opinion of this reviewer, the Court was warranted in acquitting the accused. It was argued by the prosecution (R 65, 66) that the Court should "follow" the Yamashita case (Application of Yamashita and Yamashita v. Styer, U.S. Supreme Court, 4 February 1946, 66 S. Ct. 340), which the Court did in finding, from the facts, that the accused were not guilty (Dall JAG, Vol. V, No. 2, pp. 39, 94).

6. CLENNEDY: Accused acquitted.



7. CONCLUSIONS:

It is recommended that, as no action by any reviewing authority is necessary, the record of trial and other papers be filed in this office and that a copy of the Review and Recommendations be forwarded to the Judge Advocate, European Command, for his information.

  
HENRY C. GILES  
Attorney  
Post Trial Section

Having examined the record of trial, I concur.

  
C. E. STRAHLER  
Colonel JAG  
Deputy Judge Advocate  
for War Crimes